



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 29, 2020

The Honorable Ruth R. Hughs
Secretary of State
1019 Brazos Street
Austin, Texas 78701

Dear Secretary Hughs:

This letter provides informal guidance concerning whether political conventions may occur under the Governor's executive orders. We conclude that political conventions are included among the list of covered services and, therefore, are not prohibited by the Governor's executive orders.

The Texas Disaster Act of 1975 (the Act) authorizes the Governor to declare a state of disaster if a disaster has occurred or the threat or occurrence of a disaster is imminent. TEX. GOV'T CODE § 418.014(a). The Act expressly permits the Governor to "issue executive orders, proclamations, and regulations, and amend or rescind them." *Id.* § 418.012. Importantly, the Act provides that the Governor's "orders, proclamations, and regulations have the force and effect of law." *Id.*; see also *In re Abbott*, No. 20-50264, 2020 WL 1685929, at *7 (5th Cir. Apr. 7, 2020) (recognizing state authority to implement emergency measures during a public health crisis).

On March 13, 2020, Governor Abbott declared a state of disaster in all Texas counties in response to the novel coronavirus disease 2019 (COVID-19), authorizing the use of all available State and local resources that are reasonably necessary to cope with the disaster. Proc. of Mar. 13, 2020. Governor Abbott has renewed this declaration. Procs. of May 12, 2020 and Apr. 12, 2020. In addition, Governor Abbott has issued various executive orders to enable the safe, strategic reopening of select services in response to the COVID-19 disaster. See, e.g., Exec. Order GA-23 (May 18, 2020).

Executive Order GA-23 allows certain "Covered Services" to operate.¹ See generally *id.* It also prohibits certain activities. *Id.* at 7; see also Proc. of May 26, 2020 (expanding list of covered services). "Covered Services" include specific services listed in GA-23, as well as "everything listed by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance

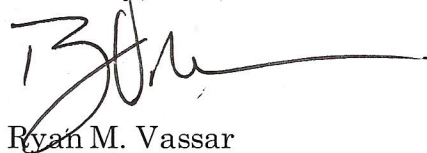
on the Essential Critical Infrastructure Workforce, Version 3.0”.¹ Exec. Order GA-23 at 3. Notably, the CISA Guidance identifies that “[e]lections personnel” are essential personnel. CISA Guidance at 16.

In Texas, political conventions play an essential role in the electoral process. Perhaps one of the most important functions of a state convention is the selection of presidential electors in a presidential election year. See TEX. ELEC. CODE § 192.003. These electors serve to fulfill the State’s role in the Electoral College. See U.S. CONST. art. II, § 1, cl. 3. They vote—on behalf of all Texans—to elect the President and Vice President of the United States. If political conventions are prohibited, parties may be unable to nominate and select individuals, like these presidential electors, to represent the interests of the members of their parties.

“Elections personnel” is broad in scope. That category of individuals “include both public and private sector elections support.” *Id.* But it is not limited only to those individuals. See *Yowell v. Granite Operating Co.*, 63 Tex. Sup. Ct. J. 1070, 2020 WL 2502141, *9 (Tex. 2020) (recognizing “‘includes’ and ‘including’ are terms of enlargement and not of limitation”); see also TEX. GOV’T CODE § 311.005(13). Thus, in our view, the personnel responsible for conducting political conventions are essential personnel who perform covered services by virtue of their involvement in the electoral process. Accordingly, we believe a court would likely conclude that such events are included within the “Covered Services” permitted by the Governor’s executive orders and should follow the recommended guidelines published by the Department of State Health Services.² We can think of no greater responsibility in the electoral process, moreover, than to uphold the civic duty of voting by assembling together to select the individuals who should cast the State’s electoral votes for the President and Vice President of the United States.

Please feel free to contact my office, if we can assist further.

Sincerely,



Ryan M. Vassar

Deputy Attorney General for Legal Counsel

¹ CISA Guidance, available at https://www.cisa.gov/sites/default/files/publications/Version_3.1_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers.pdf.

² See generally Texas Dep’t of State Health Servs., *Coronavirus Disease 2019 (COVID-19)*, <https://dshs.texas.gov/coronavirus/>.